
TARGET POPULATIONS:

1230

MENTALLY DISORDERED SEX OFFENDER [WIC 6316]

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PRECOMMITMENT PROCESS

Definition [WIC 6300]

A Mentally Disordered Sex Offender (MDSO) is a person who, by reason of mental defect, disease, or disorder, is predisposed to the commission of sexual offenses to such a degree that he/she is dangerous to the health and safety of others. All MDSOs have been convicted of a sex crime.

Repeal of MDSO Commitment

The laws relating to the MDSO commitment for treatment were repealed in 1981. However, Sections 3 and 4 of Chapter 928, Statutes of 1981 (SB 278) express legislative intent that the provisions of WIC 6300 et seq. shall continue to apply to persons who remain under commitment as Mentally Disordered Sex Offenders.

Authority for Treatment

Therefore, WIC Section 6300 et seq. continues in effect for those persons remaining under an MDSO commitment which occurred prior to 1981. Reference to those statutory provisions, otherwise repealed, must be made in determining the ongoing status and procedures still applicable to the remaining MDSO patient population.

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COMMITMENT TO TREATMENT

State Hospital

A Mentally Disordered Sex Offender was committed to a state hospital, upon the recommendation of the county mental health director, when the person was deemed to have been in need of intensive, long-term treatment in a secure environment. The state hospitals specifically designated for MDSO treatment were Atascadero and Patton State Hospitals.

Local Inpatient Treatment

A Mentally Disordered Sex Offender was committed to a local public or private inpatient treatment facility, upon the recommendation of the county mental health director, when the person was deemed to have been in need of intensive, short-term treatment. Those facilities included, but were not limited to:

- * Locked psychiatric facility; or

- * Locked skilled nursing facility.

Outpatient Treatment

A Mentally Disordered Sex Offender was committed to an outpatient treatment program upon the recommendation of the county mental health director, when the person was deemed to have been in need of treatment, but did not present a danger to the health and safety of others in the community, and was not in need of placement in a secure environment.

The criteria for direct placement on outpatient status are contained in PC 1600. The referral process by which a person on inpatient status is committed to outpatient status and treatment in the community is described in the **ADMISSION PROCESS** section of this manual.

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COMMITMENT TO TREATMENT

Progress Reports [WIC 6316(b)]

Every six months subsequent to the person's commitment to an inpatient treatment facility, the medical director/designee of the facility must submit a progress report to the court and to the CONREP program in the county of commitment. All reports are to be filed in the patient file.

Subsequent to a commitment to outpatient status, the CONREP program must submit a quarterly report to the court pursuant to PC 1605(d). For a full discussion, see **Quarterly Reports**, in the **REPORTS & ANNUAL REVIEW PROCESS** section of this manual.

Annual Review

Once a patient has been committed to outpatient status, PC 1606 requires an annual court report and renewal of that commitment. Please refer to the **REPORTS & ANNUAL REVIEW PROCESS** section of this manual for a detailed discussion.

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TERMINATION OF MDSO COMMITMENT

Certification of Recovery [WIC 6325(a)]

When the Community Program Director determines that an MDSO patient has been treated to such an extent that he/she will not benefit by further care and treatment and is not a danger to the health and safety of others, he/she shall file a certification of that opinion with the committing court. The certification shall include a report, diagnosis and recommendations concerning the future care, supervision, and treatment of the patient.

Certification of Non-Recovery [WIC 6325(b)]

When the Community Program Director determines that an MDSO patient has been treated and has not recovered and continues to be a danger to the health and safety of others, he/she shall file a certification of that opinion with the committing court. This certification shall include a report, diagnosis and recommendations concerning the future care, supervision, and treatment of the patient.

Review of MDSO Status [WIC 6327]

After a minimum period of 6 months of treatment in an outpatient program, the patient may apply to the court for a review of his/her status as an MDSO. The committing court may also initiate the review.

In either case, the CONREP program is then required to send a report to the court within 30 days regarding the patient in reference to WIC 6325(a) or (b). The report should also include a diagnosis and recommendations for the future care, supervision and treatment of the patient.

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TERMINATION OF MDSO COMMITMENT

Court Hearing [WIC 6325(c)]

Upon receipt of either the certification referred to above or the patient request for a review, the court shall schedule a hearing date. The court notifies both the Community Program Director and the Director of the State Department of Mental Health.

The dispositions available to the court at this hearing are described below. When a disposition has been made on the MDSO status, CONREP will receive a copy of the court order which should be filed in the patient chart.

Court Dispositions

MDSO Status Not Terminated

The court may determine that the patient has not recovered from the mental disorder and is still a danger to the health and safety of others and order the patient's return to the inpatient or outpatient program for further treatment under the prior order of commitment.

MDSO Status Terminated

The court may determine that the patient has recovered from the mental disorder to such an extent that the person will not benefit from further care and treatment and is no longer a danger to the health and safety of others. Criminal proceedings are then reinstituted and the court may:

- * If eligible, place the person on probation; or
- * Remand the person to serve the remaining time on his/her sentence.

The time spent under indeterminate commitment as an MDSO shall be credited against such sentence.

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EXTENSION OF COMMITMENT

Maximum Term of Commitment [WIC 6316.1]

The "maximum term of commitment" is the longest term of imprisonment which could have been imposed for the offense(s) of which the person was convicted. The person may not be kept in actual custody longer than the maximum term of commitment, except when the court approves an extension of commitment.

Pursuant to PC 1600.5, any time spent in a locked inpatient facility while under MDSO status will be credited toward the maximum term of commitment. All other time spent on outpatient status does not count as actual custody and is not credited.

Extension Process [WIC 6316.2]

The maximum term of commitment for an MDSO may be extended only:-

- * If the conviction was for a felony (or misdemeanor committed before July 1, 1977); and
- * The court finds that the person, by reason of mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he/she presents a substantial danger of bodily harm to others.

The extended commitment shall be for two years from the date of termination of the previous commitment. A person on an extended commitment may be extended again if the above criteria continue to be met.

Amenability to treatment is not required for an extension of MDSO commitment. Treatment programs need only be made available.